

Minutes of the June 1, 2001, meeting
City Council Chambers
25541 Barton Road
Loma Linda

1. Chair Withers called the meeting to order at 9:18 a.m.

Board Members Present

Board Members Absent

John Withers, Chair
Jose Solorio
Seymour Van Gundy
Frank Williams
Fred Ameri

Carole Beswick, Vice-Chair (Note: Vice-Chair Beswick participated by teleconference and did not vote on any items.)

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Michael J. Adackapara, Supervising Water Resource Control Engineer
Joanne E. Schneider, Environmental Program Manager
Gary D. Stewart, Chief, Regulations
Mark E. Smythe, Chief, Storm Water (Coastal Waters)
Wanda K. Smith, Chief, Basin Planning (Coastal Waters)
Hope A. Smythe, Chief, Basin Planning (Inland Waters)
Kenneth R. Williams, Chief, Underground Storage Tanks
Barbara Laffoon, Secretary

Legal Counsel

Ted Cobb

Public Attendance

Mir Fattahi, Elsinore Valley Municipal Water District
Andy Pisichelli
Peter Fox, City of Rialto
Tim Piasky, Building Industry Association of So. California (BIA/SC)
Rod Cruze, City of Riverside
Garry Brown, Orange County CoastKeeper
George Muse, Metropolitan Water District of Southern California
Nancy Wells
Paulette Hawkins
Steve Hawkins
Karla Kyle
Ziad Mazboudi, City of Westminster
Bob Von Schimmelmman, City of Orange
Vic Leipzig, Orange Coast Watch
Mark Norton, SAWPA
Greg Woodside, Orange County Water District
Jim Hyde, Irvine Ranch Water District
Cindy Beck, Irvine Ranch Water District
Tom Meregillano, Orange County Sanitation District
Paul Singarella, Latham & Watkins
Sat Tamaribuchi, The Irvine Company

2. Public Forum

Counsel Ted Cobb explained that Board Member Carole Beswick would be unable to vote on issues before the Board because the Agenda Announcement did not indicate that she would be teleconferencing.

3. Approval of minutes of the Special Meeting of April 17, 2001 and the Regular Meeting of April 19, 2001.

There being no additions or corrections, the minutes of the special board meeting held on April 17, 2001, and the regular board meeting held on April 19, 2001 were approved as presented.

4. Consideration of Consent Calendar Items.

Executive Officer Thibeault advised that items 5 and 6 had errata; he requested that the Board remove item 8, San Bernardino Special Districts Department, Citrus Plaza Wastewater Reclamation Facility, noting that the City of Redlands had requested it be withdrawn.

Action: It was moved by Board Member Van Gundy, seconded by Board Member Solorio, and unanimously carried to adopt consent items 5 and 6 with errata, and item 7 as presented.

*5. Renewal of Waste Discharge Requirements for the City of Rialto Wastewater Treatment Plant – Order No. 01-4

*6. Renewal of Waste Discharge and Producer/User Reclamation Requirements for the Yucaipa Valley Water District, Henry N. Wochholz Wastewater Treatment Plant - Order No. 01-9

*7. Renewal of Waste Discharge Requirements, Metropolitan Water District of Southern California, Robert B. Diemer Plant, Orange County - Order No. 01-23

7.a. New Waste Discharge Requirements, U.S. Coast Guard, Maintenance Dredging, Lower Newport Bay, Orange County- Order 01-68

Executive Officer Thibeault advised that this item was an agenda addendum and otherwise would have been proposed as a consent item.

Action: It was moved by Board Member Van Gundy, seconded by Board Member Solorio, and unanimously carried to adopt Order no. 01-68 as presented.

9. Standard Pacific Homes, Tustin - ACLC No. 01-63

10. Dynamic Details, Inc., Anaheim - ACLC No. 01-64

11. HQT Homes Areas 4 & 6, L. P., Placentia - ACLC No. 01-65

12. Ben Goedhart, Vermeer & Goedhart Dairy #1 - ACLC No. 01-48

Executive Officer Thibeault advised the Board that Administrative Civil Liability Complaint Nos. 01-63, 01-64, 01-65, and 01-48 had been resolved, and the dischargers had waived their right to a hearing before the Board.

13. Patti Lekkerkerker - Administrative Civil Liability Complaint No. 01-50

Executive Officer Thibeault advised the Board that after receiving additional information regarding the circumstances of this matter, this complaint had been withdrawn.

14. Michael Bidart, Loyola Dairy #1 - Administrative Civil Liability Complaint No. 01-62

Executive Officer Thibeault advised the Board that the discharger had requested a postponement due to a schedule conflict, and this item would be rescheduled for the September 14, 2001 meeting.

15. Public Workshop, Renewal of Waste Discharge Requirements, Orange County Public Facilities and Resources Department and Incorporated Cities of Orange County, Urban Storm Water Runoff Management Program - Order No. 01-20

Mark E. Smythe, Chief, Storm Water (Coastal Waters), reviewed the history of the original permits, discussed the proposed draft permit, and addressed some of the comments received from the public in response to the initial draft permit. Previous comments, as well as those received at this meeting, and comments resulting from this draft permit will be considered in the final draft. There will be another public workshop during the July 20, 2001 Regular Board meeting, and it is anticipated that the permit will be presented for adoption at the September 14, 2001 Regular Board meeting.

Public comments were made by:

Chris Crompton, Orange County Public Facilities & Resources Dept.

Phil Wray, City of Brea

Karen Ashby, Storm Water Supervisor for the County of Orange

Ziad Mazboudi, City of Westminster

Jim Hyde, Irvine Ranch Water District

Souri Amirani, City of Santa Ana

Tim Piasky, BIA/SC

16. Shellfish Harvesting Beneficial Use Assessment Plan for Newport Bay, Resolution No. 01-59

Wanda K. Smith, Chief, Basin Planning (Coastal Waters), explained that the Board adopted Resolution No. 99-10 on April 9, 1999, which amended the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) to establish a Total Maximum Daily Load (TMDL) for fecal coliform in Newport Bay.

Orange County, the Cities within the watershed (Santa Ana, Costa Mesa, Newport Beach, Orange, Lake Forest and Tustin), The Irvine Company and agricultural operators in the watershed are responsible for fecal coliform discharges to Newport Bay, and responsible for preparation of the plans required by the TMDL, and for implementation of these plans, once approved by the Board. As required, the County of Orange's Public Facilities & Resources Dept. (OCPF&RD) (on behalf of the Cities of Orange County) submitted a work plan for the Beneficial Use Assessment for Shellfish Harvesting in Newport Bay on March 1, 2001.

Board staff commented on the proposed plan, and OCPF&RD responded with appropriate changes. Board staff recommended the adoption of Resolution No. 01-59, approving the plan.

Action: It was moved by Board Member Van Gundy, seconded by Board Member Solorio, and unanimously carried to adopt Resolution No. 01-59 as presented.

17. Lake Elsinore Update

The information contained in the written documentation was accepted as the update.

18. Public Workshop - Oversight and Prioritization of Underground Storage Tank Cases

The Board inquired whether additional comments had been received as a result of the first workshop, other than those contained in the current staff report. Kenneth Williams, Chief,

Underground Storage Tanks, responded that no other comments had been received. The Board accepted the report as presented.

19. Supplemental Environmental Projects (SEPs) Update

Executive Officer Thibeault noted that more than 1,000 contact letters had been sent soliciting suggestions and comments from the public with regard to establishing a SEP list. Response had been slow, but staff is getting comments at this time. Chair Withers suggested that perhaps a follow-up letter could be sent.

Recess

The Board recessed at 11:50 a.m. and reconvened at 12:05 p.m.

19.a. Vila Borba Project, City of Chino Hills

Information pertaining to this item is contained in a verbatim transcript.

Environmental Program Manager, Joanne Schneider, presented the staff report. She described the proposed Vila Borba project area and indicated that, at a conceptual level, the project applicant and her consultants had identified acceptable mitigation for the water quality and beneficial use impacts of the project. These impacts include the fill of five intermittent drainages on the site and the loss of least Bell's vireos, an endangered avian species, and their habitat. However, Ms. Schneider stated that additional detailed information concerning the proposed mitigation was necessary. Ms. Schneider described Board staff's concerns with the CEQA document prepared for the project and indicated that staff could not find CEQA compliance, which is a prerequisite to 401 certification.

Board legal counsel Ted Cobb discussed pertinent CEQA regulations. He advised the Board that, given the substantive and procedural deficiencies of the CEQA process and document for the project, the Board is obligated to assume the lead agency role to assure CEQA compliance, unless the City of Chino Hills, heretofore the lead agency, steps forward.

Jon Petke, Planning Associates, consultants to the project applicant, discussed the efforts made to develop acceptable mitigation for the project. He indicated that the Board could and should find effective CEQA compliance by virtue of the proposed mitigation, which includes dedication of a substantial portion of the property as permanent open space and the creation of a basin designed to improve the quality of runoff from the site.

John Condas, Jackson, DeMarco & Peckenpaugh, presented legal arguments on behalf of the project applicant. He stated that the 401 certification is justified on both policy and legal grounds. He asserted that the CEQA statute bars further action regarding CEQA compliance for the project as Mr. Cobb had recommended. He also stated that future action by the City of Chino Hills regarding the tentative tract map extension was not relevant to the Board's decision on the 401 certification.

Nancy Wells, a resident of the City of Chino Hills, described the biological survey done on one part of the project site and stated that a negative declaration was given without knowledge of the biological resources on the site. She pointed out that there has been no opportunity for public input regarding development of the majority of the site. She indicated that Regional Board action would be premature given that the City is reconsidering the project and may require one or more Environmental Impact Reports.

Paulette Hawkins, a resident of the City of Chino Hills, indicated that in issuing (or deciding to issue) a mitigated negative declaration, the City did not take into account a number of CEQA guidelines that bar the issuance of a mitigated negative declaration. These guidelines pertain to the proximity of a public airport and the presence of state registered archaeological sites on the site. She also spoke to the limited public notification about the project that was provided by the City.

Discussion among the Board members ensued concerning the merits of taking or delaying action on the matter.

Board Member Ameri moved and Board Member Solorio seconded that the Board approve the staff recommendation that action be postponed to the next meeting.

Board Member Williams introduced a substitute motion, Chair Withers seconded, that the staff be directed to issue the certification.

Action: It was moved by Board Member Williams, seconded by Board Chair Withers to instruct Board Staff to issue the certification. Discussion following the motion included reference to submittal by the applicant of requisite information finalizing details of the application and mitigation proposal. The vote was three aye – two no. The motion carried.

20. General Permits

Staff provided a list of all new permittees recently enrolled under the Region's general permits.

21. Hazardous Waste and Sewage Spill Incident Report

Staff provided the Board with a list of incidents occurring since those reported at the April 19, 2001, Board meeting.

22. Executive Officer's Report

All pertinent information was in the written report submitted in the Agenda.

23. Regional Board Member Communications

Board Member Williams expressed concern that ACLCs might be issued to dairies when violations were the result of off-site run-on and whether both the US EPA and the Regional Board were citing the same facilities for the same violations. Executive Officer Thibeault advised that the dairies are not cited when the violations occur from off-site runoff nor are there instances of "double" citations by both agencies.

24. Closed Session

No closed session was held.

25. Adjournment

The Board was adjourned at 2:36 p.m. to the regular meeting of July 20, 2001, at 9:00 a.m., at the City Council Chambers of Corona.

Respectfully submitted,

/s/

Gerard J. Thibeault
Executive Officer

/bjl